

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/697,454

Applicant : Richard W. Newman et al.

Filed : October 30, 2003

Art Unit: 2873

Examiner : Brandi N. Thomas

Docket No. : 281_317 US01

Confirmation No. 7977

Customer No. : 72,742

Title APPARATUS AND METHOD FOR DIAGNOSIS OF
OPTICALLY IDENTIFIABLE OPHTHALMIC CONDITIONS

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the second Restriction Requirement, dated July 25, 2007, Applicants hereby provisionally elect, with traverse, to prosecution the claims of Species II, which relate to Fig. 4 and the following claims readable thereupon; namely Claims 1, 2, 4-7, 12-16, 19, 23, 29, 30, 32, 33, 34, 35, 40, 41, 42, 46, 55, 60, 61, 62, 63, 64, 66, 67, 68, 73, 74, 78, 79, 87, 91, 92, 94, 95 and 96) in the above-captioned patent application. In this instance, the features relating to Fig. 2 are believed to be generic to that of the application and therefore Applicants interpretation of the claims readable upon Fig. 4 included those of both Figs. 2 and 4.

Appl. No. 10/697,454
Resp. Dated August 27, 2007
Reply to Restriction Requirement of July 25, 2007

However, Applicants respectfully traverse this Restriction Requirement since the subject matter of all of the pending claims – is sufficiently related that a thorough and complete search for the subject matter of the elected claims would necessarily encompass a thorough and complete search for the subject matter of the non-elected claims. Thus, it is respectfully submitted that search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is clearly stated that “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits.” It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to applicants and improper duplicative examination by the Patent Office.

Applicants herein reserve the right to file divisional patent application(s) based on the subject matter of the withdrawn and non-elected claims.

Entry of this response and expedited examination of the elected claims is respectfully requested at this time.

If the Examiner wishes to expedite disposition of the above-captioned patent application, she is invited to contact Applicants representative at the telephone number below.

In the event that Applicants have overlooked the need for an extension of time, additional extension of time, payment of fee, or additional payment of fee, Applicants hereby conditionally petition therefore and authorize that any charges be made to Deposit Account No.: 50-3010.

Respectfully submitted,

HISCOCK & BARCLAY, LLP



Peter J. Bilinski
Reg. No. 35,067
One Park Place
300 South State Street
Syracuse, NY 13202-2078
Tel: (315) 422-2131
Fax: (315) 703-7369

Date: August 27, 2007